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In re Application of	:	
AIYAR, et al.	:	DECISION ON PETITION
Serial Number: 10/553,117	:	
PCT No.: PCT/US04/12045	:	
Int. Filing Date: 16 April 2004	:	UNDER 37 CFR 1.181
Priority Date: 18 April 2003	:	
Atty. Docket No.: MS0019P	:	
For: SPLICE VARIANTS OF HUMAN VOLTAGE	:	
GATED CALCIUM CHANNEL....	:	

This decision is in response to applicant's "Communication Under 37 CFR §1.8(b) Regarding Notice of Abandonment of Application" filed 04 August 2008 in the United States Patent and Trademark Office (USPTO). The petition is being treated pursuant to 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 16 April 2004, applicant filed international application PCT/US04/12045, which claimed priority of an earlier application filed 18 April 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 18 October 2005.

On 13 October 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an executed declaration of the inventors, a preliminary amendment; a paper sequence listing and a computer readable format of the sequence listing.

On 02 November 2006, applicant was mailed a NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES (Form PCT/DO/EO/92) informing applicant of the need to provide an "initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper of compact disc copy of the "Sequence Listing", as well as an amendment specifically directing its entry into the application." Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 27 June 2008, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/922 mailed 02 November 2006 within the time period set therein and that above-identified application was abandoned as to the United States.

On 04 August 2008, applicant filed the present petition under 37 CFR 1.181 to withdraw the holding of abandonment indicating that a response had been filed on 22 December 2006.

DISCUSSION

As detailed above, a review of the application file finds that applicant filed an initial computer readable form (CRF) copy of the sequence listing on 13 October 2005. As such, the mailing of the Form PCT/DO/EO/922 on 02 November 2006 was improper. However, said review also shows that the floppy disk has been misplaced prior to being examined for compliance. It does not appear that applicant provided additional copies of the CRF with the present petition. As such, a CRF of the sequence listing is still required for the application to move forward. Applicant has provided an amendment directing the entry of the sequence listing.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The "NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909)" mailed on 27 June 2008 is hereby **VACATED**.

This application is being returned to the DO/EO/US for processing in accordance with this decision; namely the issuance of a new Form PCT/DO/EO/922 providing applicant two months (extendable) to provide the USPTO with a computer readable form (CRF) copy of the sequence listing.



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